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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,856	08/17/2000	William Hertling	10990089-1	5382

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EXAMINER

EL HADY, NABIL M

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/640,856

Applicant(s)

HERTLING, WILLIAM

Examiner

Nabil M El-Hady

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 1-20 are pending in this application.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9 and 13-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 6, 8, 9, 11, 13, 15, 16, 18, 20, 22, 24, and 25 of copending Application No. 09/640,855, hereafter "855".

Although the conflicting claims are not identical, they are not patentably distinct from each other. The limitations of the independent claims of the instant application concerning the queue server, its processor, its memory, and queuing and print job ticket processing logics are similar to the limitations in claims 1, 2, 4, 6, 8, 9, 11, 13, 15, 16, 18, 20, 22, 24, and 25 of "855". The limitations of the dependent claims of the instant application are similar and/or obvious from the limitations in claims 1, 2, 4, 6, 8, 9, 11, 13, 15, 16, 18, 20, 22, 24, and 25 of "855".

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hower, Jr. et al. (US 5,467,434), hereafter "Hower".

6. As to claims 1 and 13, Hower discloses the invention as claimed including a system and a method in a queue server for controlling the printing of a document (Fig. 2), comprising: a processor coupled to a local interface (50, Fig. 2); a memory coupled to the local interface (43, Fig. 2); and a print queue logic stored in the memory and executable by the processor (inherent in Fig. 2), the print queue logic including: logic to place a print job ticket received from a client in a printing queue (); the printing queue determined by information contained in the print job ticket (inherent in col. 8, lines 23-26; and col. 9, lines 15-18).

7. As to claims 2 and 14, Hower discloses selecting a printing queue from a plurality of queues each logically associated with a print server and a printer (Fig. 2, and col. 4, lines 41-42).

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8. As to claims 4 and 15, Hower discloses the client generating the print job ticket specifies a destination printer (col. 4, lines 13-26) and the print server places the job ticket in a printing queue associated with the printer (col. 4, lines 41-42).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hower, Jr. et al. (US 5,467,434).

11. As to claim 6, Hower discloses the print job ticket containing variety of information (Fig. 3), however, it may not be exactly what is claimed. It would have been obvious to one skilled in the art at the time of the invention that a print job ticket may include any information related to the client and the required printing process including a client ID, a user ID, a group ID, a destination printer, a document size, a document content, a billing information or a combination thereof.

12. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hower, Jr. et al. (US 5,467,434), hereafter "Hower" in view of Hube (US 5,517,316).

13. As to claims 7 and 8, the claims are rejected for the same reasons as claim 1 above. Hower, however, does not disclose updating a statistical database with information contained in

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the print job ticket. Hube, on the other hand, discloses updating a statistical database with information contained in the print job ticket (col. 2, lines 53-62; col. 7, lines 2-8; and col. 8, lines 52-53). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Hower and Hube because Hube database would provide the basis for keeping track of information related to users and their print jobs.

14. As to claim 9, Hower discloses the print job ticket containing variety of information (Fig. 3), however, it may not be exactly what is claimed. It would have been obvious to one skilled in the art at the time of the invention that a print job ticket may include any information related to the client and the required printing process including a client ID, a user ID, a group ID, a destination printer, a document size, a document content, a billing information or a combination thereof.

15. As to claims 10 and 11, Hube discloses generating a log of printing activity (col. 7, lines 2-8). Hube, however, does not generate a bill. It would have been obvious to one skilled in the art at the time of the invention that generating a print log would facilitate and allow for a generation of a bill.

16.

17. Claims 3, 5, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hower, Jr. et al. (US 5,467,434), hereafter "Hower" in view of Nomura et al. (US 5,327,526), hereafter "Nomura".

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18. As to claims 3, 5, and 16 Hower does not disclose prioritizing print job ticket based on information in the print job ticket. Nomura, on the other hand, discloses prioritizing print job ticket based on information in the print job ticket (col. 2, lines 26-61). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Hower and Nomura in order to enhance the flexibility of the printing system by allowing for designating priorities to the jobs in each queue.

19. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hower, Jr. et al. (US 5,467,434), hereafter "Hower" in view of Hube (US 5,517,316) as applied to claim 7 above and further in view of Nomura et al. (US 5,327,526), hereafter "Nomura".

20. As to claim 12, Hower and Hube do not disclose responding to control command from network administrator or a client. Nomura, on the other hand, discloses responding to control command from network administrator or a client (col. 4, line 67 to col. 5, line 2). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Hower, Hube, and Nomura in order to enhance the flexibility of the printing system by allowing an operator to submit controlling commands to the system.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

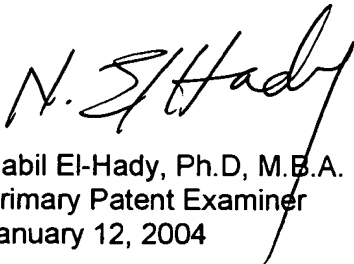
Kobayashi et al. (US 6,246,487) ; Mastie et al. (US 6,489,656) ; Salgado et al. (US 5,872,569) ; Mastie et al. (US 6,373,585); and Reilly (US 6,401,150).

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22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (703) 308-7990. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T An can be reached on (703) 305-9678. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'N. El-Hady', with a long, sweeping horizontal stroke extending to the right.

Nabil El-Hady, Ph.D, M.B.A.
Primary Patent Examiner
January 12, 2004